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| APPLICATION NO.                                                                                   | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO.        | CONFIRMATION NO. |
|---------------------------------------------------------------------------------------------------|-------------|------------------------|----------------------------|------------------|
| 10/696,731                                                                                        | 10/29/2003  | Ronald Paul Wroblewski | LKE002                     | 6327             |
| 32047                                                                                             | 7590        | 03/06/2006             |                            |                  |
| GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC<br>55 SOUTH COMMERICAL STREET<br>MANCHESTER, NH 03101 |             |                        |                            |                  |
|                                                                                                   |             |                        | EXAMINER<br>FOX, CHARLES A |                  |
|                                                                                                   |             |                        | ART UNIT                   | PAPER NUMBER     |
|                                                                                                   |             |                        | 3652                       |                  |

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/696,731

Applicant(s)

WROBLEWSKI, RONALD PAUL

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20031029.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

***Specification***

The disclosure is objected to because of the following informalities: the reference to related application 10/351,812 should be updated to reflect that it has been abandoned.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,8-10,12,17 are rejected under 35 U.S.C. 102(b) as being anticipated by Smalley. Regarding claims 1 and 9 Smalley US 4,392,772 discloses an elevator system for a truck body comprising:

an enclosed truck body having a bed;

walls enclosing said bed and a door opening in at least one of said walls;

a retractable platform (10) mounted in said opening;

at least one drive mechanism (20) for moving said retractable platform;

wherein said platform is connected to said drive mechanism such that the platform retracts into an upright position between the truck body when said platform is in a raised position;

a control mechanism for controlling said drive mechanism.

Regarding claims 8 and 17 Smalley further discloses that the drive mechanism moves the platform upwards and downwards during operation thereof.

Regarding claim 10 Smalley further disclose the platform may be placed in the side wall of said body.

Regarding claim 12 Smalley also discloses that the drive mechanism comprises:  
at least two hydraulic cylinders mounted to said body;  
at least two pistons associated with said cylinders, mounted on opposite sides of said platform;  
wherein said controls operate to supply hydraulic fluid to said cylinders to operate said device.

Claims 1,9,11,12,18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Himes. Regarding claims 1 and 9 Himes US 3,371,805 discloses a vehicle comprising:

a truck body with a bed (16) side walls (13) and a roof (15);  
at least one door (54) coupled to at least one of said side walls of the vehicle;  
a platform mounted within said doorway that moves between an upright stowed position between said side walls and a horizontal lift position;  
at least one drive mechanism (21) for raising and lowering said platform;  
a control system (21) for operating said drive mechanism.

Regarding claim 11 Himes et al. further disclose the platform is attached to a rear opening of the vehicle.

Regarding claims 12 and 18 Himes et al. also disclose the drive mechanism is comprised of at least one hydraulic cylinder hidden within the walls of the vehicle.

Regarding claim 19 Hines et al. also disclose the control means (21) is located outside of said truck body.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4,6,7,13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smalley as applied to claims 1 and 9 above, and further in view of Ronian et al. regarding claims 2,6,7 and 13-15 Smalley teaches the limitations of claims 1 and 9 as above, he does not teach the location of the control switches for operation of the device. Ronian et al. US 4,010,859 teaches a lift platform for a vehicle comprising:

- a platform for lifting and lowering a load from a vehicle;
- a first switch (SB1) located outside of said vehicle and remote from said platform;
- a second switch (SB2) located within said vehicle and operable while standing on said platform;

said switches for raising and lowering said platform via a drive means. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Smalley with dual switches as taught by Ronian et al. in order to

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allow the platform to be operated by a lone person during either loading or unloading of the vehicle.

Regarding claims 3 and 4 Smalley also teaches that the drive mechanism comprises:

- at least two hydraulic cylinders mounted to said body;

- at least two pistons associated with said cylinders, mounted on opposite sides of said platform;

- wherein said platform is pivotally mounted between said cylinders.

Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smalley as applied to claims 1 and 9 above, and further in view of Ebato. Smalley teaches the limitations of claims 1 and 9 as above, he does not teach rails between the side walls of the vehicle and the platform. Ebato US 5,470,188 teaches a rear lift platform (8) for a vehicle with rails (15) extending from the walls of said vehicle to said platform. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Smalley with rails as taught by Ebato in order to support the platform when it is being used to lift or lower a load.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Himes in view of Ronian. Himes et al. teaches a vehicle comprising:

- a truck body with a bed (16) side walls (13) and a roof (15);

- at least one door (54) coupled to at least one of said side walls of the vehicle;

- a platform (10) mounted within said doorway that moves between an upright stowed position between said side walls and a horizontal lift position;

at least one drive mechanism (21) for raising and lowering said platform;  
a control system (21) for operating said drive mechanism. Himes et al. do not teach an inside control mechanism. Ronian et al. teaches a lift platform for a vehicle comprising:

a platform for lifting and lowering a load from a vehicle;  
a first switch (SB1) located outside of said vehicle and remote from said platform;  
a second switch (SB2) located within said vehicle and operable while standing on said platform;

said switches for raising and lowering said platform via a drive means. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Himes et al. with dual switches as taught by Ronian et al. in order to allow the platform to be operated by a lone person during either loading or unloading of the vehicle.


The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Woodward (1951), Downing (1980) and Kendall (2003).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 2-23-06  
Charles A. Fox  
Examiner  
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